

PATENT

IN THE U.S. PATENT AND TRADEMARK OFFICE

Application No.: 09/896,248 Group Art Unit: 2613
Filing Date: June 29, 2001 Examiner: Shi K. Li
Applicant: Carl A. Caroli et al
Title: WAVELENGTH-SELECTIVE ADD/DROP ARRANGEMENTS FOR OPTICAL COMMUNICATION SYSTEMS
Attorney Docket: 129250-002053/US

**PETITION TO REVIVE AN UNINTENTIONALLY ABANDONED APPLICATION
UNDER 37 C.F.R. §1.137(b)**

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314
Mail Stop PETITION

September 1, 2007

Sir:

I. PETITION TO REVIVE

Applicants hereby petition for revival of the above-identified application because the Notice of Non-Compliant Appeal Brief dated September 8, 2006 ("Notice") was not discovered or received by the Applicants until after the time period for responding to the Notice had expired.

The Applicants' attorney, John E. Curtin, hereby submits the following statements in support of this Petition:

A. INITIAL STATEMENT BY APPLICANTS' ATTORNEY IN SUPPORT OF PETITION TO REVIVE

- 1.) The following are the circumstances surrounding the reasons why the Notice mailed September 8, 2006 was not discovered by Applicants' attorney in time for a response to be prepared and timely filed.
- 2.) On August 21, 2006 Applicants' attorney filed an Appeal Brief in the above-referenced application.
- 3.) On March 20, 2007 Applicants' attorney discovered the Notice had been mailed on September 8, 2006 while investigating circumstances involving another application using Private PAIR. The Notice required a response within 30 days unless an extension of time was requested. The time period for requesting an extension of time expired on March 8, 2007.
- 4.) On March 20, 2007 the Applicants' attorney called the Patent Appeals Specialist whose name was contained in the Notice to determine what the basis for the Notice was and to inquire what the Applicants' attorney should do next. The basis was that certain informalities had to be corrected. The Specialist graciously stated that he would investigate what the next step should be.
- 5.) On May 23, 2007 the Applicants' attorney spoke to the Patent Appeals Specialist again. The Specialist advised the Applicants' attorney that a petition needed to be filed.
- 6.) The Applicants' attorney then conducted an investigation as to why the Notice had not been received earlier (i.e., before October 8, 2006).
- 7.) On information and belief, the Applicants' attorney believes that the Notice was lost in the mail. A review of Applicants' attorney's docket entries for the time period between September 8 and October 8th, 2006 (see attached) does not indicate that a response to the Notice was ever docketed. For the Office's reference, if the Notice had been received an entry of "2053 Response to Notice" would have appeared on Applicants' Attorney's docket somewhere between October 6 through 10, 2006 (see for example, October 7 "Appeal Brief 927"). The numbers "2053" are the last four numbers of the attorney docket number corresponding to the present application. Because no such entry appears on these dates the Applicants' attorney concludes that the Notice was not received by Applicants' attorney's law firm even though it appears that the Notice was properly addressed.

B. SPECIFIC STATEMENT BY APPLICANTS IN SUPPORT OF THE PETITION TO REVIVE

The Applicants hereby petition for revival of the above-referenced application. The above-identified application was unintentionally abandoned for failure to timely file a response to the Notice dated September 8, 2006. The entire delay in filing the required response, namely the response to the Notice, from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional. Thus, the abandonment was unintentional.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

1. Petition Fee

Small Entity - fee \$ _____ (37 CFR 1.17(m))

Small Entity Statement enclosed herewith.

Small Entity Statement previously filed.

Other than Small Entity - fee **\$1,500.00** (37 C.F.R 1.17(m)). The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment for this fee, or credit any overpayment, to Deposit Account No. 50-3777 as well as for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; **particularly, petition, Reply or extension of time fees.**

2. Reply and/or Fee

A Response to the Notice (i.e., Corrected Appeal Brief) is also enclosed.

3. Terminal Disclaimer with disclaimer fee

Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

4. Statement. The entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

September 1, 2007

Date:

//John E. Curtin//
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